

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
No. _____

Heidi Klever,

Plaintiff,

v.

United States Postal Service and
Alan Bryan Ringwelski,

Defendants.

**NOTICE OF REMOVAL
OF CIVIL ACTION TO
FEDERAL COURT**

Defendants United States Postal Service and Alan Bryan Ringwelski by their attorneys Erica H. MacDonald, the United States Attorney for the District of Minnesota, and Andrew Tweeten, Assistant United States Attorney, hereby give notice to the Plaintiff Heidi Klever and to State of Minnesota Seventh Judicial District, Stearns County District Court as follows:

1. The United States Postal Service and Alan Bryan Ringwelski are the Defendants in a civil action now pending in the State of Minnesota Seventh Judicial District, Stearns County District Court, entitled Heidi Klever v. United States Postal Service and Alan Bryan Ringwelski, and trial has not yet commenced therein.

2. That the above-entitled action was commenced against the Defendants via personal service of the Summons and Complaint. A copy of the Summons served upon Defendants is attached hereto and incorporated herein as Exhibit 1. A copy of the Complaint served upon Defendants is attached hereto and incorporated herein as

Exhibit 2. A copy of Affidavits of Service of the Summons and Complaint are attached hereto and incorporated herein as Exhibit 3.

3. Plaintiff's Complaint alleges that Defendants acted negligently and harmed her as the result of a motor vehicle collision in Sartell, Minnesota on May 13, 2017.

4. This notice of removal is filed pursuant to 28 U.S.C. § 2679(d)(2), as Plaintiff's Complaint commenced an action against Defendants in state court for money damages sounding in tort for the alleged acts or omissions of an employee of Defendant United States Postal Service on May 13, 2017 while said employee was then acting in the course and scope of their employment with the United States Postal Service, an establishment of the executive branch of the government of the United States of America.

5. Title 28, United States Code, Sections 1346(b), 2672, and 2679(b) provide that the exclusive remedy for the negligent or wrongful acts or omissions of an employee of the United States acting within the scope of his or her employment shall be an action against the United States under the Federal Tort Claims Act, Title 28, United States Code, Sections 1346(b) and 2671-2680 ("FTCA"). Congress further provided that the United States district courts shall have exclusive jurisdiction over civil actions under the FTCA, 28 U.S.C. § 1346(b)(1).

6. Filed with this Notice of Removal is a Certification by Assistant United States Attorney Ana H. Voss, Civil Chief, United States Attorney's Office for the District of Minnesota, Defendant Alan Bryan Ringwelski, an employee of Defendant United States Postal Service, was acting within the scope of federal employment with the

United States Postal Service at the time of the incidents on May 13, 2017 alleged in the Complaint.

7. Pursuant to 28 U.S.C. § 2679(d)(2), the Certification conclusively establishes the scope of federal employment of Defendant Ringwelski for the purposes of removal.

8. Accordingly, this action must be deemed to be an action against the United States and is therefore removed to United States District Court pursuant to 28 U.S.C. § 2679(d)(2).

WHEREFORE, notice is hereby given that the above-captioned action is removed from the state court to this Court for trial or such other determination as this Court may make regarding the action in accordance with its jurisdictional limits under 28 U.S.C. §§ 2679(d)(2), 1346(b), and 2671-2680. Furthermore, pursuant to 28 U.S.C. § 1446(d), the State of Minnesota Seventh Judicial District Stearns County District Court shall proceed no further with respect to all proceedings relating to this action unless and until such matter is remanded.

Dated: April 9, 2019

ERICA H. MacDONALD
United States Attorney

s/ Andrew Tweeten

By: ANDREW TWEETEN
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Attorneys for Defendants

Andrew Tweeten, declares under penalty of perjury as provided by 28 U.S.C. § 1746, that he is an Assistant United States Attorney for the District of Minnesota and represents the Defendants named herein; that he has read the foregoing notice and knows the contents thereof; that the same is true of his own knowledge, except as to any matters stated therein on information and belief and as to those matters he believes them to be true.

Dated: April 9, 2019

s/ Andrew Tweeten

Andrew Tweeten

Assistant United States Attorney